IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 379 OF 1998

Damodar Somarya Chaudhari.. ... Appellant.

Versus

Atmaram Anant Raul and Ors. ... Respondents.

Mr. L. S. Gaikwad for the Appellant.

Mr. S. H. Joshi for the Respondents.

CORAM : A. S. OKA, J.

DATED : 21ST APRIL, 2005.

P.C.:

Heard learned Counsel appearing for the parties.

2. The following substantial questions of law arise in this second appeal :

(1) Whether the findings recorded by the appellate court on second point for determination regarding encroachment is totally inconsistent with the finding recorded by the appellate court on the

first point for determination ?

(2) Whether the appellate court could not brushed aside the overwriting in respect of Hissa number mentioned in Certificate issued under Section 32-M of the Bombay Tenancy and Agricultural Lands Act, 1948 only on the basis of the entries in the revenue record in as much as the record of the proceedings under Section 32-G of the said Act of 1948 was not produced before the trial Court ?

(3) Whether the trial court ought to have passed a decree for removal of encroachment after recording finding on the issue of title in favour of the original plaintiff and after accepting correctness of the plan drawn by the Surveyor after taking measurement ?

3. The second appeal is admitted on the aforesaid substantial questions of law.

4. Printing is dispensed with. Appellant is directed to file private paper book and decree forms within a period of three months. If compliance is not made within three months, appeal to stand dismissed for want of prosecution without any further reference to the Court.

5. Parties to act on the authenticated copy of this order.

Sd/-

(A. S. OKA, J.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 8014 OF 1998

IN

SECOND APPEAL NO. 379 OF 1998

Damodar Somarya Chaudhari.. ... Appellant.

Versus

Atmaram Anant Raul and Ors. ... Respondents.

Mr. L. S. Gaikwad for the Appellant.

Mr. S. H. Joshi for the Respondents.

CORAM : A. S. OKA, J.

DATED : 21ST APRIL, 2005.

P.C.:

Rule.

2. Shri Joshi, learned Counsel, waives service on behalf of respondent Nos.1 and 2. Office noting shows that the legal representative of respondent No.3 is

duly served.

3. On 11th September, 1998 this Court directed the parties to maintain status quo. As the said ad-interim order is operating for last more than six years, the said order dated 11th September, 1998 will continue to operate till the final disposal of the second appeal.

4. Civil Application is, accordingly, disposed of with no order as to costs.

5. Parties to act on the authenticated copy of this order.

Sd/-

(A. S. OKA, J.)